

SENATE RECORD VOTE ANALYSIS

106th Congress
1st Session

Vote No. 10

February 4, 1999, 3:24 p.m.
Page S-1209 Temp. Record

CLINTON IMPEACHMENT/Calling Monica Lewinsky as a Witness

SUBJECT: Impeachment trial of William Jefferson Clinton for perjury and obstruction of justice. Division II of the House Managers motion for the admission of evidence, the appearance of witnesses, and the presentation of evidence.

ACTION: MOTION REJECTED, 30-70

SYNOPSIS: On December 19, 1998, the House of Representatives impeached (indicted) President Clinton for perjury and obstruction of justice based on his actions and statements in relation to a Federal civil rights sexual harassment lawsuit that was filed against him by a former employee, Paula Corbin Jones. Ms. Jones alleged that in 1991, when she was an Arkansas State employee, then-Arkansas Governor Clinton exposed himself to her in a crude sexual advance which she refused, and that she subsequently and consequently suffered numerous adverse employment actions and was defamed. During the discovery phase of the lawsuit, the presiding judge ordered President Clinton to answer under oath certain questions posed by Ms. Jones' attorneys regarding any history he had of involvement in sexual relationships with State or Federal employees (such lines of questioning in sexual harassment lawsuits are a common means of establishing whether patterns of similar sexual harassment exist, including patterns of reward and punishment based upon the responses of subordinate employees to sexual advances). Those questions, which were posed in January, 1998, included questions regarding his relationship with a former White House intern, Monica Lewinsky (President Clinton had met Ms. Lewinsky and had begun a relationship with her when she was an intern). Later, in August, 1998, Ms. Lewinsky testified before a Federal grand jury, under a grant of immunity, regarding an affidavit she had filed in the *Jones* case. She gave detailed testimony and provided extensive corroborating physical evidence of a sexual relationship with the President. The President also testified before that grand jury in August. His testimony concerned his relationship with Ms. Lewinsky, his testimony before the Federal court in the sexual harassment lawsuit, and actions he took and statements he made before and after testifying in that lawsuit. The House impeachment of the President for obstruction of justice is based on numerous charges that he illegally tried to conceal the nature of his relationship with Ms. Lewinsky from the Federal court and the grand jury,

(See other side)

YEAS (30)			NAYS (70)			NOT VOTING (0)	
Republicans (30 or 55%)	Democrats (0 or 0%)		Republicans (25 or 45%)	Democrats (45 or 100%)		Republicans (0)	Democrats (0)
Abraham	Helms		Allard	Akaka	Kennedy		
Ashcroft	Hutchinson		Bennett	Baucus	Kerrey		
Bond	Inhofe		Brownback	Bayh	Kerry		
Bunning	Kyl		Campbell	Biden	Kohl		
Burns	Lott		Chafee	Bingaman	Landrieu		
Cochran	Lugar		Collins	Boxer	Lautenberg		
Craig	Mack		Coverdell	Breaux	Leahy		
Crapo	McCain		Domenici	Bryan	Levin		
DeWine	McConnell		Enzi	Byrd	Lieberman		
Fitzgerald	Murkowski		Gorton	Cleland	Lincoln		
Frist	Nickles		Grassley	Conrad	Mikulski		
Gramm	Santorum		Gregg	Daschle	Moynihan		
Grams	Smith, Bob		Hutchison	Dodd	Murray		
Hagel	Specter		Jeffords	Dorgan	Reed		
Hatch	Thompson		Roberts	Durbin	Reid		
			Roth	Edwards	Robb		
			Sessions	Feingold	Rockefeller		
			Shelby	Feinstein	Sarbanes		
			Smith, Gordon	Graham	Schumer		
			Snowe	Harkin	Torricelli		
			Stevens	Hollings	Wellstone		
			Thomas	Inouye	Wyden		
			Thurmond	Johnson			
			Voinovich				
			Warner				

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

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and its impeachment of him for perjury is based on charges of numerous perjurious statements in his grand jury testimony, including charges of perjury regarding his relationship with Ms. Lewinsky and his efforts to obstruct justice in the sexual harassment case against him.

Division II of the House Managers motion would call Monica Lewinsky as a witness before the Senate for a period not to exceed 8 hours. Either party would be able to question her as if she were declared adverse. The House Managers would be entitled to reserve a portion of their examination time to re-examine Ms. Lewinsky following any examination by the President's lawyers.

NOTE: Manager McCollum offered a motion on behalf of the House Managers for the admission of evidence, the appearance of witnesses, and the presentation of evidence. Immediately after the motion was offered Senator Lott moved to divide the motion into its three constituent parts. The Senate earlier agreed to division I (see vote No. 9). After this vote, it rejected a substitute motion for division III (see vote No. 11), and agreed to division III (see vote No. 12).

Arguments by the House Managers:

The House Managers are acting as prosecutors. Prosecutors, in both criminal and civil trials, have very wide latitude in deciding which witnesses they will call in presenting their cases. Similarly, defense attorneys decide which witnesses they will call. Each side is able to cross-examine the other's witnesses. This procedure is followed because hundreds of years of experience in this country and around the world have proven that it is the best and the fairest way to determine the facts of a case. Until this trial the Senate has also followed this procedure. In this case, though, Senators have strictly limited the ability of the House Managers to try their case. The Managers would have liked to call at least 15 fact witnesses who have first-hand knowledge of the events that prove the President's guilt. The White House lawyers, though, did not have 15 fact witnesses that they thought could be called to prove the President's innocence, nor did they have 10 such witnesses, or 5 such witnesses, or even 1 such witness. Therefore, their strategy from the beginning has been to try to shorten the trial and to prevent the calling of witnesses. A number of Senators made clear that they wanted to take a middle course between the two sides. Therefore, knowing that the Senate was not going to approve the calling of 15 witnesses, the House Managers moved to depose just 3 key witnesses, with the right later on to move to call them as witnesses or at a minimum to present their videotaped testimony (see vote No. 5). The Senate agreed to that motion.

Now we are at the point at which witnesses would ordinarily be called. We would prefer to call all 3 of the deposed witnesses, but we know that many Members are reluctant to call any witnesses at all. Therefore, with this motion, we are compromising yet again--we are asking for only one witness to be heard--Monica Lewinsky. She is obviously the most important witness to call. In her videotaped deposition, Senators were able to assess her credibility first-hand. They saw the person instead of listening to lawyers read snippets of her testimony. In the deposition, Ms. Lewinsky was undeniably a very reluctant witness who clearly wanted to protect the President. She did not volunteer information; she was not forthcoming. She provided the very minimum of truth in order to be consistent with her own grand jury testimony, which was legally necessary for her to fulfill the terms of her immunity agreement. This obvious reluctance greatly added to her credibility--she is not out to get the President, yet she had no choice but to tell the truth. On numerous points, if Monica is telling the truth, the President is guilty as charged. On the perjury article, she reaffirmed the specific facts that show that the relationship she had with the President fit squarely within the four corners of the term "sexual relationship" as defined in the Jones lawsuit, in direct opposition to the President's own sworn testimony (even if one accepts the President's own twisted reading of that definition). It is a classic "he said/she said" conflict that can best be resolved by assessing in person the credibility of the witness. On the obstruction of justice charge, she tried to defend the President by saying he never asked her to lie on her affidavit. However, she also reluctantly admitted that he suggested to her that she could file an affidavit instead of testifying and that she could use their old cover story to explain her visits to the Oval Office. That cover story was that she was delivering official papers or was visiting his secretary; the President knew that both of those stories were lies. Further, she admitted that she gave that cover story to the lawyer drafting her affidavit, that she discussed the draft affidavit with Mr. Jordan who made changes, that she offered to let the President review the draft affidavit but that he said he had already seen fifteen of them, and that at no time did the President ever suggest any way that she could file a truthful affidavit. Similarly, she reluctantly confirmed that she suggested to the President that she could give the gifts he had given her (which had been subpoenaed) to his secretary, Betty Currie, to hide, that later that same day Ms. Currie called her and said that she understood that she had something to give her, and that Ms. Currie then went to Ms. Lewinsky's home to get the gifts. (Ms. Currie later testified that she took those gifts to her home and put them under her bed).

All of the above testimony clearly goes to the heart of the charges against President Clinton. The normal practice in a trial at this point would be to have the witness examined, cross-examined, and re-examined. Experience has shown that this process is the best way to get to the truth. The American public has heard the lawyers give their versions of events--it is now time for them to hear from Ms. Lewinsky.

Arguments by lawyers for the President:

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As an abstract proposition, we do not dispute the importance of live witnesses. As trial lawyers, we know better than anyone else that live witnesses can make all the difference in a trial. However, that abstract question is not the question that is before the Senate today. Rather, the question before the Senate is whether live testimony before the Senate by Ms. Lewinsky could in any way make a difference in the outcome of this trial. We submit that it could not. Ms. Lewinsky has already testified twenty-four times (mostly before the grand jury). What more could she possibly add to the story that she has already told and retold? Her testimony has not varied, nor do we expect that it would vary under questioning before the Senate. Everyone already knows that there are conflicts between her testimony and the President's testimony. Those conflicts have existed and will continue to exist. Before the depositions were taken the House Managers had said that her videotaped testimony could resolve those conflicts. We submit that it has not, and that if she were called before the Senate they would remain unresolved. The House Managers have also said that we should call Ms. Lewinsky as a witness so that Senators can assess her credibility in person. However, we note that they have already had the opportunity to observe her demeanor on the videotape, which gives them a closer view than they would have if she were testifying in front of the Senate. In short, nothing new or of value would come from live testimony.

Live testimony would be worse than an exercise in redundancy, though--it would be an exercise in excess. The American people do not wish to see Monica Lewinsky testify. They are sick of this trial and want it to end. They do not want to see the House Managers drag the proceedings on endlessly. Monica Lewinsky has already testified a total of 24 times. It would reflect poorly on the Senate if it dragged her out for one more recitation of her story.